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February 4, 1991



Mr. Ruben McCullers
RCRA Branch
Compliance Section
United States Environmental Protection Agency,
Region VII
726 Minnesota Avenue
Kansas City, Missouri 66101

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RCOM SECTION

Dear Mr. McCullers:

This letter summarizes our discussion earlier today regarding the effect of reclamation on the RCRA status of unused printed circuit boards and scrap trimmings from circuit board production. Our discussion considered the June 5, 1990 memo on the same subject by Thea McManus of EPA's Office of Solid Waste and Emergency Response, and a March 27, 1989 letter from Robert Dellinger, Chief of the Waste Characterization Branch of EPA's Office of Solid Waste. Copies of both documents are attached.

You agreed with the conclusion in the McManus memo that unused circuit boards are non-listed commercial chemical products, and therefore are not solid waste under Table 1 of 40 C.F.R. § 261.2(c) when reclaimed. Thus, even if unused circuit boards fail the TCLP, they are excluded from RCRA Subtitle C hazardous waste management requirements when reclaimed. You explained that this conclusion was correct regardless of whether the unused reclaimed circuit boards were off-specification, or met specifications but were not sold.

You said that, apart from the McManus memo, your conclusion was based on the fact that unused circuit boards do not clearly fall within any of the other categories on Table 1 (i.e., they are not spent materials, sludges, by-products, or scrap metal). You said that unused circuit boards fall within the listed commercial chemical product category under Table 1 even though they are not listed in 40 C.F.R. § 261.33 because EPA has concluded that non-listed commercial products have the same status as listed commercial products. See 50 Fed. Reg. 14219 (April 11, 1985).

You also agreed with the McManus memo's analysis and conclusion that scrap trimmings from circuit board manufacturing are by-products under Table 1 when reclaimed and are exempt from RCRA Subtitle C requirements even if they fail the TCLP.

We also discussed the point at which the recycling exclusion applies to unused circuit boards and scrap trimmings. The

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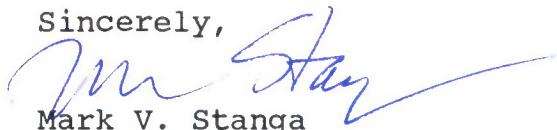
Dellinger letter concluded that in the case of sludge exhibiting a characteristic of hazardous waste, another category under Table 1, the material would be exempt from RCRA Subtitle C regulation at the time of generation if the generator intended at that time to reclaim the material and did not subsequently accumulate it speculatively. I suggested that the rationale underlying the Dellinger letter also applied to unused circuit boards and scrap trimmings, and that they should be exempt from RCRA Subtitle C regulation at the time of generation if the generator shows through documentation to the extent required by 40 C.F.R. § 261.2(f) that he planned to reclaim them and did not accumulate them speculatively. You agreed.

In conclusion, you responded that if a person managed a by-product or listed (or non-listed) commercial chemical product that failed the TCLP in a manner inconsistent with the RCRA Subtitle C requirements, you would not start an enforcement action against the person if he could document an intention to reclaim the material. You also agreed that in the case of unused circuit boards and scrap trimmings that fail the TCLP, the reclamation exemption from RCRA hazardous waste management requirements arises at the time of generation.

Finally, you noted that because my inquiries arose from circumstances in Missouri, I should be aware of 10 C.S.R. § 25-4.261(2)(A)(3), which states that the reclamation exception for chemical products listed in 40 C.F.R. § 261.33 applies only when the original manufacturer uses, reuses or recycles the material. You also cautioned me that the Missouri Department of Natural Resources may not treat listed and non-listed commercial chemical products similarly for the purpose of the RCRA reclamation exemption as EPA does.

Please contact me immediately if my summary of our discussion is not accurate. Thank you for your attention and assistance.

Sincerely,


Mark V. Stanga
Environmental Affairs Counsel

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cc: David Doyle, EPA Region VII, RCRA Compliance Section
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